IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 2156 of 1995

Between:

1 Myaka Shankaraiah, S/o.Rajaiah,
R/o.Karimnagar.
2 Vadloori Yellaiah, S/o.Pochaiah,
R/o.Karimnagar.
3 Tallapalli Yellaiah, S/o.Mallaiah,
R/o.Karimnagar.
4 Dasari Veeramma, W/o.Yellaiah,
R/o.Karimnagar.
5 Gasikanti Ramulu, S/o.Yellaiah,
R/o.Karimnagar.

..... PETITIONERS

AND

The Spl. Dy. Collector & LAO, Rehabilitation cum L.A.Unit,
L.M.D. Colony, Karimnagar.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to the Memo No.B/1048/92, dated 03/09/1992 issued by the respondent herein and the same by duly declaring that the Memo issued by the respondent rejecting the application filed by the petitioners jointly under Sec.28(A) of the L.A.Act for redetermination of the compensation basing on the Judgment and decree passed in O.P.No.166/1985 dated 06/02/1992 by the learned Subordinate Judge, Karimnagar on the ground that the petitioners have not received the amount "Under Protest" pursuant to the award passed by the respondent as illegal, arbitrary, contrary to the provisions of Sec.28(A) of the L.A.Act and consequently direct the respondent herein to consider the joint application made by the petitioners on 30-4-1992 and redetermine the compensation amount payable to the petitioners on the basis of the Judgment and decree passed in O.P.No.166/1985 dated 06/02/1992 by the learned Subordinate Judge, Karimnagar.

Counsel for Petitioners: MR. V.RAVI KIRAN RAO

Counsel for the Respondent: GOVERNMENT PLEADER FOR LAND ACQUISITION

The Court made the following:

ORDER;

This writ petition is filed questioning the memo dated 3-9-1992 issued by the respondent – Special Deputy collector & Land Acquisition Officer, Rehabilitation cum Land Acquisition Unit, L.M.D. Colony, Karimnagar.

The lands of the petitioner are acquired under the provisions of the Land Acquisition Act, 1894 (for brevity 'the Act') by issuing notification under Section 4(1) of the Act in A.P. Gazette Part I Extraordinary No.56 dated 13-2-1982. Arising out of same notification, some matters were referred under Section 18 of the Act in O.P.No.166 of 1985 to the learned Subordinate Judge, Karimnagar. The learned Subordinate Judge, Karimnagar enhanced the compensation by judgment decree dated 6-2-1992. Thereafter, the petitioners herein whose lands were also covered under the same notification filed application on 5-5-1992 within the period of three months specified under Section 28(A) of the Act to re-determine the compensation paid to them in the light of the judgment decree dated 6-2-1992 passed in O.P.No.166 of 1985. The respondent rejected said representation by issuing the impugned Memo solely on the ground that the petitioners have not received the amount of compensation under protest.

Though the writ petition is of the year 1995, no counter affidavit is filed on behalf of the respondents.

Learned counsel for the petitioners placed reliance on a judgment of the Supreme Court in the case of **UNION OF INDIA v HANSOLIDEVI.** In the said judgment, the apex court has held that receipt of compensation with or without protest pursuant to the award of the Land Acquisition Officer is of no consequence for the purpose of making a fresh application under Section 28-A of the Act to re-determine the compensation.

Inasmuch as the lands of the petitioners were also acquired under the same notification which was subject matter of enhancement proceedings under Section 18 of the Act in O.P.166 of 1985 and the only objection for rejecting the application of the petitioners is that they have not received the compensation under protest, the

judgment of the apex Court squarely covers the case in favour of the petitioners.

In the circumstances, the writ petition is allowed and impugned order is set aside. The respondent is directed to consider and dispose of the application of the petitioners filed under Section 28-A of the Act within a period of three months from the date of receipt of copy of this court, without reference to the objection that the petitioners have not received compensation under protest. No costs.

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9-12-2004

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To

1. The Special Deputy Collector and Land Acquisition Officer,

Rehabilitation cum L.A. Unit, L.M.D. Colony, Karimnagar.

2. Two CCs to the Government Pleader for Land Acquisition,

High Court Buildings, Hyderabad (O.U.T).

3. Two CD copies.